

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
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)
Inquiry into Policies and Programs)
To Assure Universal Telephone Service)
In a Competitive Market Environment)

RM - 8388
[Report No. 1980]

REPLY COMMENTS OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

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In the Matter of

Inquiry into Policies and Programs To Assure Universal Telephone
Service in a Competitive Market Environment

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**REPLY COMMENTS OF THE
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS**

Pursuant to Sections 1.405 of the Federal Communications Commission's ("FCC" or "Commission") Rules of Practice and Procedure, 47 C.F.R. §§ 1.405 (1993), the National Association of Regulatory Utility Commissioners ("NARUC") respectfully submits the following reply comments addressing pleadings filed in response to the FCC's November 1993 Public Notice seeking statements opposing or supporting the Petition for Rulemaking filed on November 1, 1993 by MFS Communications Company, Inc. ("MFS") seeking a notice of inquiry ("NOI") into universal service policies and programs.

In support of its comments, NARUC states as follows:

I. INTEREST OF NARUC

NARUC is a quasi-governmental nonprofit organization founded in 1889. Its members include the governmental bodies engaged in the regulation of carriers and utilities from all fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands. NARUC's mission is to improve the quality and effectiveness of public utility regulation in America.

NARUC members include State and territorial officials charged with the duty of regulating the communications common carriers operating within their respective borders. These officials have the obligation to assure that communications services and facilities required by the public convenience and necessity are established and that service is furnished at just and reasonable rates.

The MFS petition raises for comment issues concerning the Universal Service Fund ("USF"). Clearly, such issues are of direct concern to NARUC's State commission membership. Indeed, NARUC has passed a number of resolutions specifically addressing universal service issues and NARUC state commission members are participants on the Federal State Joint Board currently examining USF operation.

II. BACKGROUND

The November 1993 MFS petition requests an NOI and en banc hearing to determine future policies for continuing to promote universal telephone service in a competitive market environment. However, as many commentators noted, universal service issues have been raised in other proceedings pending before the FCC - including the FCC staff paper on access charge reform, the National Association of Regulatory Utility Commissioners (NARUC) petition for a NOI concerning access issues, the United States Telephone Association (USTA) petition for a rulemaking on access charge reform, Ameritech's petition for a declaratory ruling regarding its Customers First Plan, and the Joint Board USF proceedings.

In addition to these FCC proceedings, the Administration, NARUC, and several States are directly examining universal services issues. The Administration, through the National Telecommunications and Information Administration (NTIA), has stated principles for telecommunications and information policy in "The National Information Infrastructure: The Administration's Agenda for Action" (NII). The NII encompasses the goal of continuing and expanding the concept of universal service and NTIA has initiated forums to explore the related issues.

NARUC has also initiated a project, the Universal Service Working Group, to examine the evolving definition of universal service through a collaborative process among representatives of interested parties. In addition, most State policy makers are considering and investigating issues related to universal service within their individual States.

In response to the diverse forums addressing related issues, NARUC has passed a number of resolutions SUGGESTING AN OPEN COLLABORATIVE PROCESS AMONG STATE, FEDERAL, INDUSTRY AND NTIA TO ADDRESS THESE AND OTHER RELATED ISSUES.

The most recent resolution, NARUC's Resolution on Recent Initiatives to Consider Universal Service Policies, passed last November at our annual meeting in New York, specifically addresses the MFS request in the context of multiple fora addressing the same or similar issues. A copy of this resolution is attached as Appendix A.

III. DISCUSSION

Should the FCC issue a NOI in response to the MFS petition, the NOI should address all universal service and related issues in lieu of a more limited NOI that would focus primarily on those issues raised by MFS.

NARUC has not taken a position on whether the FCC should issue an NOI in response to the MFS petition. However, as noted supra and in our December 12, 1993 ex parte filing in this and several related dockets, NARUC does specifically "endorse[] the use of a collaborative process with the FCC, NTIA, and all interested parties in order to address and refine the concept of and issues relating to universal service." See Appendix A, infra. Moreover, as many initial commentators suggested,¹ whatever forum is utilized, any review of USF issues must be comprehensive. NARUC's November 1993 resolution specifically "supports a comprehensive review of the concept of universal service and issues related to the continuation and expansion of universal service." Id.

The focus of the MFS petitions is too limited. MFS articulates views as to how universal service should be defined, what specific types of subsidy mechanisms should be adopted to promote those goals, and how the subsidy programs should be funded and administered. MFS suggests its position statement is intended as a framework to begin discussion of these issues.

¹ OPASTCO Comments at 3, noting the questions raised in MFS's filing "are not the only questions that must be addressed"; GTE Comments at 2, noting that "none of the [FCC] proceedings currently in progress offer a venue for the comprehensive examination that is necessary...none have included the full range of issues that must be examined".

NARUC, and other commentators, have identified several issues related to universal service which MFS has not addressed. Some of those issues include the following:

- o Whether universal service policies should promote universal affordability of some services and universal availability of other services;
- o What measures of universality (e.g., percent of subscribers) should be used to determine whether universal service policies have been met;
- o How privacy issues may affect universal service policies;
- o How universal service policies should balance costs against economic and social benefits of services; and
- o How the various policy makers can best coordinate their efforts in developing and implementing universal service policies, to ensure nationwide implementation while minimizing overlap or duplication of subsidies.

Accordingly, should the FCC issue a NOI in response to the MFS petition, the NOI should address all universal service and related issues in lieu of a more limited NOI that would focus primarily on those issues raised by MFS.

IV. CONCLUSION

NARUC recognizes and appreciates the FCC's recent efforts to expedite Federal-State Joint Board actions and the acknowledgment of valid State concerns with respect to access reform contained in the August 1993 cover letter for the FCC Staff access white paper from all three serving FCC Commissioners to certain NARUC State commissioner members of the NARUC Communications Committee.

In light of these valid State concerns, we respectfully request that the Commission carefully consider NARUC's positions, as outlined in this and related proceedings, and begin immediately to develop a mechanism for a cooperative approach to address universal service issues. In addition, should the FCC issue a NOI in response to the MFS petition, the NOI should be comprehensive and address all universal service issues including those listed supra.

Respectfully submitted,



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APPENDIX A

**Resolution on Recent Initiatives to
Consider Universal Service Policies**

WHEREAS, MFS Communications Company, Inc. (MFS) on November 1, 1993, filed a petition with the Federal Communications Commission (FCC) for a Notice of Inquiry (NOI) and en banc hearing on an accelerated basis to determine future policies for continuing to promote universal telephone service in a competitive market environment; and

WHEREAS, Issues relating to universal service have been raised in other proceedings pending before the FCC including the FCC staff paper on access charge reform, the National Association of Regulatory Utility Commissioners (NARUC) petition for a NOI concerning access issues, the United States Telephone Association (USTA) petition for a rulemaking on access charge reform, Ameritech's petition for a declaratory ruling regarding its Customers First Plan, and revisions to the Universal Service Fund (UHF) before the Joint Board; and

WHEREAS, The Administration through the National Telecommunications and Information Administration (NTIA) has stated principles for telecommunications and information policy in "The National Information Infrastructure: The Administration's Agenda for Action" (NII); and

WHEREAS, The NII encompasses the goal of continuing and expanding the concept of universal service for the next generation and NTIA has initiated forums to explore the issues relating to universal service; and

WHEREAS, The NARUC has initiated a project to examine the evolving definition of universal service through a collaborative process among representatives of interested parties; and

WHEREAS, State policy makers are considering and investigating issues related to universal service within their individual States; and

WHEREAS, MFS' position statement included in its petition articulates its views as to how universal service should be defined, what specific types of subsidy mechanisms should be adopted to promote those goals, and how the subsidy programs should be funded and administered; and

WHEREAS, MFS indicates its position statement is intended as a framework to begin discussion of these issues and fully anticipates other parties will offer divergent views on some issues and identify other issues not addressed in MFS' statement; and

WHEREAS, The NARUC has identified several issues related to universal service which MFS has not addressed, including, but not limited to, the following:

- Whether universal service policies should promote universal affordability of some services and universal availability of other services;
- What measures of universality (e.g., percent of subscribers) should be used to determine whether universal service policies have been met;
- How privacy issues may affect universal service policies;
- How universal service policies should balance costs against economic and social benefits of services; and
- How the various policy makers can best coordinate their efforts in developing and implementing universal service policies, to ensure nationwide implementation while minimizing overlap or duplication of subsidies; now, therefore, be it

RESOLVED, That the National Association of Regulatory Utility Commissioners, convened at its 105th Annual Convention in New York, New York, supports a comprehensive review of the concept of universal service and issues related to the continuation and expansion of universal service; and be it further

RESOLVED, That, should the FCC issue a NOI in response to the MFS petition, the NOI should address all universal service and related issues in lieu of a more limited NOI that would focus primarily on those issues raised by MFS; and be it further

RESOLVED, That the NARUC endorses the use of a collaborative process with the FCC, NTIA, and all interested parties in order to address and refine the concept of and issues relating to universal service; and be it further

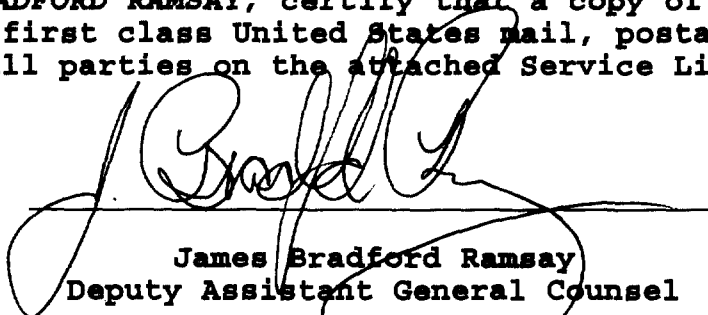
RESOLVED, That the NARUC General Counsel and staff shall take appropriate actions in all applicable forums that are necessary to carry out the objectives of this resolution.

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CERTIFICATE OF SERVICE

I, JAMES BRADFORD RAMSAY, certify that a copy of the foregoing
was sent by first class United States mail, postage prepaid, to
all parties on the attached Service List.

A large, stylized handwritten signature in black ink, appearing to read 'J. Ramsay', is written over a horizontal line. The signature is fluid and cursive, with the first and last names being prominent.

James Bradford Ramsay
Deputy Assistant General Counsel

National Association of
Regulatory Utility Commissioners

January 3, 1994